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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,096	08/07/2003	Levik Kodaverdian	Bona US 4 CVL	3381

7590 07/17/2006  
KLAAS, LAW, O'MEARA & MALKIN, P.C.  
1999 Broadway, Suite 2225  
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EXAMINER

SHAKERI, HADI

ART UNIT PAPER NUMBER

3723

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/638,096	KODAVERDIAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hadi Shakeri	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-13, 15-24, 26-28, 30 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13, 15-24, 26-28, 30 and 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

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# **DETAILED ACTION**

1. In view of the Appeal Brief filed on April 21, 2006, PROSECUTION IS HEREBY REOPNED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Examiner sincerely regrets any inconvenience this may have caused the appellant.

## ***Claim Rejections - 35 USC § 102***

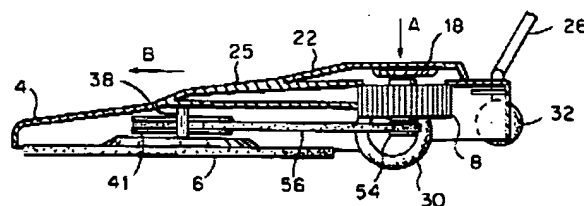
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-9, 11, 13, 15-17, 20-24, 26, 28, 30, and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Gurstein et al. (5,870,791).

Gurstein et al. discloses all of the limitations of claims, 1 and 17, i.e., a floor edger comprising a first housing (defined



by shroud 4, deck 14 and cover 22) including a first opening and a rotatable abrasive disc (6) located in said opening; a second opening (16 on either side of the bar defining 17); a third

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opening (24); said rotatable abrasive disc having a diameter greater than six inches; and a motor (8) operatively connected to said first housing and drivingly connected to said abrasive disc located at least partially in a second opening; a motor controller (25) as discloses in col. 6, lines 33-47, wherein a fan (18) drivingly connected to the motor and located in the first housing on the shaft (20) between motor (8) and the pulley (54) (05:65-67) and wherein an air path is defined between the port and the first opening through the fan (05: 50-58).

Regarding claims 4-8 and 20-23, Gurstein et al. meets the limitations, e.g., col. 3, line 46 (US 5,004,944); 2.5 hp.

Regarding claims 9, 11, 13, 15-16 and 24, 26, 28, 30, and 33-35, Gurstein et al. meets the limitations, e.g., second housing frame (3).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 12 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurstein et al. in view of anyone of Buser et al. (6,935,939), Oda et al. (6,447,383) or Howard, Jr. et al. (5,392,568).

Gurstein et al. as applied above meets all of the limitations above, except for disclosing a vacuum device attachable to the third opening.

Vacuum ports to withdraw dust and debris are known in the art as evident by prior art cited above. Buser et al. discloses that using a cooling fan for withdrawing dust and debris is old and known in the art, but having limited utility. Howard, Jr. et al., discloses using a cooling fan for withdrawing dust and debris. Oda et al. teaches providing another fan for withdrawing dust and debris.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Gurstein et al. with vacuum device as taught by anyone of Buser et al., Oda et al., or Howard, Jr. et al. to collect the generated dust and debris. Note that modification per Buser et al. may not be the preferred embodiment as taught by the teaching reference, but just modifying the cooling fan by reversing the flow (and collecting or guiding the dust, e.g., via a hose), as simple, fast and inexpensive means of providing a dust collector for the device is considered well within the knowledge of one of ordinary skill in the art.

6. Claims 2, 3, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurstein et al. in view of McCutchen (6,540,598).

Gurstein et al. as described meets all the limitations of the above claims, except for the specific size of the disc, and weight of the edger. The edger as disclosed by Gurstein is dimensioned and proportionally sized for a disc having 20" diameter, therefore modifying or proportionally downsizing the edger for a disc of about 7", a common commercially available

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size as evident by or in view of McCutchen (col. 3, line 46), depending on the workpiece and or operational parameters, e.g., grinding small or hard to reach areas, a modification well within the knowledge of one of ordinary skill in the art, would reduce the weight if not three times smaller, sufficiently lighter to meet the limitations as recited.

Regarding claims 2, 3, 18 and 19, Gurstein modified in view of McCutchen, i.e., for use with a smaller pad, e.g., 7" depending on workpiece and/or operational parameters meets the limitations, since pads having 6 to 8 inch diameters are common in the art.

### **Response to Arguments**

7. Applicant's arguments filed April 2, 2006 have been fully considered but are moot in view of the new rejections.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is 571-272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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